

REMARKS

Claims 1-8 were submitted for examination. The present response amends claims 1, 3 and 6. Claims 24-27 have been added to define additional protectable subject matter. After the present claim amendments and additions, claims 1-8, and 24-27 now remain pending in the application.

I. Section 102 Rejection

Claims 1-3, 5-6, and 8 were rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,905,653 to Higham et al. (hereafter "Higham"). Applicants traverse the rejection of claims 1-3, 5-6, and 8 in light of the following remarks and the present claim amendments.

Higham is directed to a method for dispensing medical supply or pharmaceutical items from a dispensing unit which comprises a processor and a cabinet having a plurality of drawers which are lockable within the cabinet by a locking mechanism. The processor includes a record of the items held within each drawer and which items may be accessed by specific users or user types. Based on the user identification information received, the processor unlocks one or more drawers to which the user may have access. The unit may be provided with a horizontal shelf with a plurality of visual indicators. With this configuration, entry of a selection from a list of names actuates the visual indicator corresponding to the drawer having the item. This allows for easy identification of the drawer having the desired item.

The amended independent claim 1 recites a method that comprises "entering user information into a processor controlling a dispensing cabinet having a plurality of shelves; choosing a locate mode; identifying an item to be located; and said processor responsively flashing a display on at least one of said plurality of shelves within the cabinet that contains said item to be located, wherein said display flashes the quantity of said item held by the corresponding shelf." Applicants assert that Higham fails to teach the combination of steps recited in claim 1 and, hence, fails to anticipate claim 1. For example, the visual indicators in Higham are similar to the LED indicators discussed in the "Background of the Invention" section

in the present application. Thus, Higham fails to teach, among other things, “flashing a display on at least one of said plurality of shelves within the cabinet that contains said item to be located, wherein said display flashes the quantity of said item held by the corresponding shelf” as recited in the amended independent claim 1. Thus, Higham fails to anticipate claim 1.

Except for establishing proper dependence for claim 3, none of the claims 2-3 and 5 are substantively amended. As claims 2-3 and 5 are dependent on the allowable claim 1, Higham also fails to anticipate claims 2-3 and 5. Therefore, reconsideration and allowance of claims 1-3 and 5 is respectfully requested.

The amended independent method claim 6 at the least contains amendments similar to those presented above with reference to claim 1. Therefore, in view of non-anticipation and allowability of claim 1 over Higham, Applicants respectfully assert that amended claim 6 is also not anticipated by Higham. Further, claim 8 depends from the allowable independent claim 6 and, hence, is also not anticipated by Higham. Therefore, reconsideration and allowance of claims 6 and 8 is respectfully requested.

In view of the arguments given hereinabove, Applicants request the Examiner to withdraw the § 102(b) rejections of pending claims 1-3, 5-6, and 8.

II. Section 103 Rejection

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being obvious over U. S. Patent No. 6,294,999 to Yarin et al. (“Yarin”) in view of U. S. Patent No. 6,138,865 to Gilmore (“Gilmore”). Applicants traverse the rejection of claims 1-7 in view of the following remarks and present claim amendments.

In summarily rejecting claims 1-7, the Examiner appears to have applied broad language rejecting all of the claims 1-7. Applicants find it difficult to comprehend the Examiner’s bald assertion that “Yarin et al. ‘999 disclosing the elements previously discussed.” Except for the discussion of the “locate mode” element, there is no discussion in the entire Office Action of how Yarin discloses various other elements recited in claims 1-7. However, despite the

Examiner's failure to establish *prima facie* obviousness of claims 1-7 in view of Yarin and Gilmore, as required under MPEP §§ 2142, 2143 (Eighth Edition incorporating Revision No. 1, 2003), Applicants proceed to discuss how Yarin and Gilmore, either alone or in combination, fail to teach or suggest the combination of method steps recited in amended claims 1-7.

Yarin teaches a system for effective self-management of medication treatment by patients. A Smart Tray monitors and reports to third parties a patient's compliance with various medication treatment regimens. The Smart Tray retrieves medicament information from electromagnetic tags on containers placed on the tray and provides visual and/or audio signals to a patient to remind the patient when and how much of various medicaments to take. The Smart Tray can communicate with third parties, such as health care providers, pharmacies, and other suppliers of healthcare products via a computer network. In addition, the Smart Tray can communicate with various appliances and can modify medication regimens for particular medicaments in response to data received from various appliances.

Gilmore teaches a mobile medicine storage unit for an individual under a doctor's care. The unit is programmable and preferably automatic in dispensing any number of medications up to four times a day at pre-selected times. Audible and visible indicators alert patients for proper dosages and timings of those doses. An optional integral water reservoir and cup dispenser makes it possible to properly take all medications with minimal effort at the unit. Patients not in close proximity to the unit can be alerted remotely via a pager. The unit can be programmed.

The amended independent claim 1 recites a method that comprises "entering user information into a processor controlling a dispensing cabinet having a plurality of shelves; choosing a locate mode; identifying an item to be located; and said processor responsively flashing a display on at least one of said plurality of shelves within the cabinet that contains said item to be located, wherein said display flashes the quantity of said item held by the corresponding shelf." Applicants assert that neither Yarin nor Gilmore, either alone or in combination, teach or suggest the combination of steps recited in claim 1. For example, the visual indicators in Yarin and Gilmore are similar to the LED indicators discussed in the "Background of the Invention" section in the present application. Thus, Yarin and Gilmore both

fail to teach or suggest, among other things, “flashing a display on at least one of said plurality of shelves within the cabinet that contains said item to be located, wherein said display flashes the quantity of said item held by the corresponding shelf” as recited in the amended independent claim 1. Thus, the combination of Yarin and Gilmore fails to render claim 1 obvious.

Except for establishing proper dependence for claim 3, none of the claims 2-5 are substantively amended. As claims 2-5 are dependent on the allowable claim 1, Applicants assert that the combination of Yarin and Gilmore also fails to render claims 2-5 obvious. Therefore, reconsideration and allowance of claims 1-5 is respectfully requested.

The amended independent method claim 6 at the least contains amendments similar to those presented above with reference to claim 1. Therefore, in view of non-obviousness and allowability of claim 1 over the combined teachings of Yarin and Gilmore, Applicants respectfully assert that amended claim 6 is also non-obvious in view of Yarin and Gilmore. Further, claim 7 depends from the allowable independent claim 6 and, hence, is also not rendered obvious by the combination of teachings in Yarin and Gilmore. Therefore, reconsideration and allowance of claims 6-7 is respectfully requested.

In view of the arguments given hereinabove, Applicants request the Examiner to withdraw the § 103(a) rejections of pending claims 1-7.

III. New Claims

The present amendment adds claims 24-27. Claims 24-25 depend from the allowable independent claim 1, whereas claim 26 depends from the allowable independent claim 6. Therefore, based on the discussion, under parts I and II above, of patentability of claims 1 and 6 over the teachings of Higham, Yarin, and Gilmore, Applicants assert that the added dependent claims 24-26 are also patentable over Higham, Yarin, and Gilmore, either applied alone or in combination.

The added independent apparatus claim 27 recites an item dispenser that comprises “a cabinet having: a plurality of shelves, wherein at least one of said plurality of shelves contains an

item to be located, and a display on each of said plurality of shelves containing said item to be located; and a processor in electrical communication with said cabinet and controlling an operation thereof, wherein said processor is configured to locate said item in said cabinet and to responsively flash on each said display the corresponding quantity of said item held by the respective shelf.” Based at least on the discussion given hereinabove under parts I and II with reference to allowability of amended independent claim 1 over Higham, Yarin, and Gilmore, Applicants assert that the new claim 27—having claim limitations similar to those recited in claim 1—is also patentable over Higham, Yarin, and Gilmore, either applied alone or in combination. For example, all of the cited references (Higham, Yarin, and Gilmore) fail to teach or suggest a processor that is “configured to locate said item in said cabinet and to responsively flash on each said display the corresponding quantity of said item held by the respective shelf” as recited in the new claim 27.

Therefore, Applicants respectfully request the Examiner for a favorable consideration and allowance of new claims 24-27.

Appl. No.: 10/010,387
Docket No.: DB000972-000
Amdt. Dated: March 31, 2004
Reply to Office action of January 23, 2004

CONCLUSION

In the present response, all rejections to the claims in the Office Action of January 23, 2004 are believed to have been addressed. Applicants therefore assert that all pending claims (i.e., claims 1-8, and 24-27) are in condition for allowance and a notice by the Office to this effect is respectfully requested. If the Examiner has any questions, comments or suggestions, the undersigned Attorney earnestly requests a telephone conference at the Examiner's convenience.

Respectfully submitted,



Edward L. Pencoske
Reg. No. 29,688
Thorp Reed & Armstrong LLP
One Oxford Centre, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-7789

Dated: 3/31/2004

Attorneys for Applicants